

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

STANDING TREES, INC.

Plaintiff,

v.

UNITED STATES FOREST SERVICE, et al.,

Defendants.

Case No.: 1:24-cv-00138-JL-TSM

**STANDING TREES' MOTION FOR
SUMMARY JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, the Court's Order after Preliminary Pretrial Conference and Scheduling Order of August 22, 2024, Plaintiff Standing Trees, by and through undersigned counsel, moves this Court to enter summary judgment on all claims asserted in Standing Trees' Complaint in this action.

In support of this motion, Standing Trees refers the Court to the attached memorandum in support of its motion, the administrative record, and the record of this litigation. As detailed in the memorandum, Standing Trees is entitled to summary judgment because Defendants U.S. Forest Service (Service) and Service officials violated the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), and the Administrative Procedure Act (APA) by authorizing two forest management projects in the White Mountain National Forest, namely, the Tarleton Integrated Resource Project and the Peabody West Integrated Resource Project (Projects). Specifically:

1. Standing Trees is entitled to summary judgment on Claim 1 of its Complaint because the Service violated NEPA by failing to adequately consider appropriate alternatives during the preparation of the final environmental assessments for the Projects. These actions are

arbitrary, capricious, an abuse of discretion, and not in accordance with law in violation of the APA.

2. Standing Trees is entitled to summary judgment on Claim 2 of its Complaint because the Service violated NEPA by failing to take a hard look at the environmental impacts of the Projects. These actions are arbitrary, capricious, an abuse of discretion, and not in accordance with law in violation of the APA.

3. Standing Trees is entitled to summary judgment on Claim 3 of its Complaint because the Service violated NEPA by concluding that the Projects would have no significant environmental impacts without first adequately considering all required factors. These actions are arbitrary, capricious, an abuse of discretion, and not in accordance with law in violation of the APA.

4. Standing Trees is entitled to summary judgment on Claim 4 of its Complaint because the Service violated NFMA by failing to conform the Projects to the requirements of the Service's Forest Plan for the White Mountain National Forest. These actions are arbitrary, capricious, an abuse of discretion, and not in accordance with law in violation of the APA.

5. Pursuant to Local Rule 7.1(a)(2), attached are the following supporting documents, all of which are incorporated by reference:

- a. Memorandum in Support of Standing Trees' Motion for Summary Judgment and its references to the Service's administrative record; and
- b. Exhibits to said Memorandum, including the Declarations of Zack Porter on behalf of Standing Trees (Exhibit A), Gerald Curran (Exhibit B), Elaine Faletra (Exhibit C), Peter Faletra (Exhibit D), Eric Jones (Exhibit E), Rebecca Lovejoy (Exhibit F), Jamie Sayen (Exhibit G), Nataliya Sundina (Exhibit H), Michael

Wipfler (Exhibit I), Robert Wipfler (Exhibit J), Peter Ascher (Exhibit K), and Robin Ascher (Exhibit L).

6. Pursuant to Local Rule 7.1(d), Standing Trees respectfully requests oral argument on this motion and the Service's anticipated cross-motion following the close of briefing in accord with the schedule set forth in the parties' joint case management submission of July 29, 2024.

WHEREFORE, Standing Trees respectfully requests that this Court grant Standing Trees' motion for summary judgment, vacate the Service's decisions regarding the Projects, and such further relief as the Court deems just and reasonable.

Respectfully submitted, this the 3rd day of October, 2024.

STANDING TREES, INC.

By its counsel:

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CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2024, I served the foregoing document electronically through ECF upon all counsel of record.

/s/ Christophe Courchesne
Christophe Courchesne
Counsel for Standing Trees